

REMARKS

Status of the claims:

With the above amendments, claims 1-3 have been amended, claim 4 has been previously canceled and claims 1-3 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Support for the amendment to claim 2 can be found at page 32, line 16 to page 33, line 6 in preparation examples 1 and 2. All other amendments are simply to comply with U.S. Patent Practice. Reconsideration is respectfully requested in light of the following remarks.

Rejections under 35 USC §112, second paragraph

Claims 1 and 3 are rejected under 35 USC §112, second paragraph as allegedly being indefinite. The Examiner asserts that "Glc" should be amended to recite "glucose". Applicants have amended claims 1-3 to identify what "Glc" means. Applicants believe that with this amendment that the rejection has been obviated. Withdrawal of the rejection is warranted and respectfully requested.

Rejections under 35 USC §102

Claim 2 is rejected under 35 USC §102(b) as being anticipated by Lichti et al. (Helvetica Chimica Acta, 1966, 49,

pp. 1552-1580. The Examiner asserts that page 1568 lines 33-49 disclose a composition that anticipates instant claim 2.

Applicants traverse. The Examiner asserts that the element "wherein the pharmaceutical preparation has a potent effect against osteoporosis, arthritis and ruptured disc" is not read into claim 2 because it is an intended use. Applicants have amended claim 2 to recite a particular concentration for the compound of formula (I) that makes it particularly amenable to the use for which it is intended (i.e., "a potent effect against osteoporosis, arthritis and ruptured disc"). Applicants believe that with this amendment, the rejection over Lichti et al. is obviated. In particular, the amount that is disclosed in Lichti et al. is outside of the instantly claimed range. Applicants have amended claim 2 to recite 2.5 to 5 mg compound /ml composition. The concentration disclosed in Lichti et al. is much higher as 3.0 g of harpagoside is used in 50 ml water. Thus, because Lichti et al. do not disclose each and every element of the claimed invention (in claim 2), Lichti et al. cannot anticipate the instant invention. The rejection is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

With the above remarks and amendments, Applicants believe that the claims, as they now stand, define patentable subject

matter such that passage of the instant invention to allowance is warranted. A Notice to that effect is earnestly solicited.


If any questions remain regarding the above matters, please contact Applicant's representative, T. Benjamin Schroeder (Reg. No. 50,990), in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By


Joseph A. Kolasch, #22,463

BS
JAK/TBS/mua

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000